

## **“Request for Exemption from Rule 05-071, Chapter 149”**

**As submitted by Patricia A Peard, Bernstein & Shur, Counselors at Law, March 16, 2011, on behalf of the  
University of New England**

### **Statute -Title 20-A: Education, Part 5: Post-Secondary Education, Chapter 409: Degree-Granting Institution**

**§10708. Exemptions** - This chapter does not apply to educational institutions which: [1981, c. 693, §§5, 8 (new) .]

- 1. Prior to September 18, 1981.** Had been authorized by the Legislature or the state board to grant undergraduate or graduate degrees prior to September 18, 1981; and are offering additional or different degrees at the same level; [1981, c. 693, §§5, 8 (new) .]
- 2. Federal reservations.** Offer programs or courses that are conducted solely on a federal reservation over which the Federal Government has exclusive jurisdiction. The commissioner shall authorize exempt status under this subsection; [2005, c. 85, §1 (amd) .] **[N/A to request}**
- 3. Noncredit courses.** Offer courses or programs that are not for academic credit; and [2005, c. 85, §1 (amd) .] **[N/A]**
- 4. Religious, nonpublic, educational institution.** Meet the following criteria. **[N/A to request}**

### **Rule 05-071 - Chapter 149: Procedures for Obtaining Authorization for Institutions of Higher Education to Confer Academic Degrees or to Offer Degree Courses/Programs in the State of Maine**

#### **1. Definitions:**


D. Exempt Institution Any institution of higher education whose course or program offerings would not be granted academic credit and any institution of higher education whose course or program offerings would be conducted on a Federal reservation over which the United States Government has exclusive jurisdiction. **All institutions of higher education seeking to be considered for exempt status will be reviewed on a case-by-case basis.**

## Bases for Proposed UNE Exemption Request

**Background:** UNE is seeking exemption “. . . from the requirement to obtain authorization to grant additional degrees from the Department” - {Maine State Board of Education}.

Date:	Authorization:	Provisions:	Proposed Significance:	Degree(s):
1831	Private & Special Law, Chapter 143	SECT. 1. “. . . That there be, and hereby is established in the town of Westbrook, County of Cumberland, at a place called Stevens plains, a literary institution by the name of “Westbrook Seminary” for the purpose of promoting piety and morality, and for the education of youth in such of the elementary and higher branches of learning, as the Board of Trustees hereinafter named shall direct.” [Sections 2-8 clarify the organization and powers of the Board of Trustees.]	“This clearly is an open charter which granted unlimited authority to educate students in all of the elementary and higher branches of learning as the Board of Trustees deem appropriate. The authority is firmly placed in the hands of the Trustees and their successors (Section 2) by the Legislature.”	Unspecified “. . . of promoting piety and morality, and for the education of youth in such of the elementary and higher branches of learning as the Board of Trustees . . . shall direct.”
1863	Private and Special Law, Chapter 252	“. . . specifically allowed the Trustees of the Westbrook Seminary to develop a course of study and confer degrees on women . . . there was no limit placed on the Trustee's authority except that the degrees had to be those generally granted by female colleges”.	“This law placed no limitations on the general authority granted to the Trustees in 1831”.	Young women were granted two special degrees, the Lady of Liberal Learning or the Lady of English Learning  LLL or LEL
1854	Private & Special Law, Chapter 268	Chapter 268 reduced the number of trustees to thirteen in number.	“This law did not in any way reduce the power of the Westbrook Seminary Board of Trustees to grant degrees established in 1831”.	---
1864	1864(Private & Special Law, Chapter 334	Chapter 334 permitted the harvesting and sale of timber and lumber upon any ½ township of land belonging to the state . . . proceeds to invested by the trustees; interest on same would be used by the governor and council to designate five perpetual scholarships to the seminary.	“This law did not in any way reduce the power of the Westbrook Seminary Board of Trustees to grant degrees established in 1831”.	---

1865	-----	-----	-----	The L.L.L and L.E.L. degrees became the Laureate Degree  <b>Laureate</b>
1865	Private& Special Law, Chapter, 414	Chapter 414 increased the number of trustees to nineteen and specified that not more than 1/3 shall be clergymen.	<b>“This law did not in any way reduce the power of the Westbrook Seminary Board of Trustees to grant degrees established in 1831”.</b>	---
By end of 19 <sup>th</sup> Century		<b>Westbrook Seminary offered four courses of study:</b>		1 three-year English course and 3 four-year programs: Scientific, Ladies Classical, and Preparatory
1903	Private & Special Law 113	Chapter 113 made women eligible to be a trustee of Westbrook seminary and established that the board of trustees would consist of not less than three nor more than twenty-seven members.	<b>“This law did not in any way reduce the power of the Westbrook Seminary Board of Trustees to grant degrees established in 1831”.</b>	---
1929	Private & Special Law, Chapter 63	<b>“This bill . . . changed the name of Westbrook Seminary to Westbrook Seminary and Junior College . . .”.</b>	<b>“... granted the newly named institution all of the rights and powers held by Westbrook Seminary”.</b>	“same rights and powers held by Westbrook Seminary”  [Junior colleges awarded two-year associate degrees - equivalent of AA, AS, AAS degrees]

1953	Private & Special Law, Chapter 123, L.D. 875	“ . . . created ‘ an institution of higher learning known as St. Francis College.’ This college was run by the Franciscan Fathers of Maine. In this case the Legislature expressly limited the authority of the Trustees of St. Francis College to grant degrees to the Bachelor of Arts and Bachelor of Science degrees”.	“When the Legislature wanted to limit degree granting authority it clearly knew how to do that. This was never done in the case of Westbrook Seminary”. [Except as specified in 1863, P&SL, Chapter 252, “. . . the degrees had to be those generally granted by female colleges.”]	St. Francis College:  BA & BS
1976	Private & Special Law, Chapter 137	Granted the power to confer graduate degree of Doctor of Osteopathy to St. Francis College of Biddeford”.		St. Francis College  Doctor of Osteopathy
1978		St. Francis College became the University of New England in 1978.		---
1981	05-071, Chapter 409, §10708	“1. Prior to September 18, 1981: Had been authorized by the Legislature or the state board to grant undergraduate or graduate degrees prior to September 18, 1981; and are offering additional or different degrees at the same level”; . . .		UNE Degrees to 09-18-1981:  Laureate, AA, AS, AAS, BA, BS, DO
1985	Private & Special Law, Chapter 20	Granted the power to confer the Associate of Arts, Associate of Science, Associate in Applied Science and the Master of Science degrees by the University of New England.		AA, AS, AAS, and MS
1987		New England College of Osteopathic Medicine was merged into the University of New England.		---

1987	Private & Special Law, Chapter 14	Granted the power to confer the Master of Social Work degree to the University of New England.		MSW
1996		Agreement and Plan of Merger was entered into between Westbrook College and the University of New England.	“Pursuant to the Agreement on July 1, 1996 the University of New England, the “merging” corporation, merged into Westbrook College, the “surviving corporation.” The separate corporate existence of the University of New England ceased at that point in time. The surviving corporation changed its name to the University of New England and kept the name Westbrook College as an assumed name for the Portland campus”.	
2000	State Board of Education Action, 5-10-00	Additional Degree-Granting Authority to award the Certificate of Advanced Graduate Study (CAGS), in Educational Leadership.		CAGS Educational Leadership
2002	State Board Action 11-13-02	Additional Degree-Granting Authority to award the Certificate of Advanced Graduate Study (CAGS), in Public Health.		CAGS Public Health
2004	State Board Action 7-14-04	Additional Degree-Granting Authority to confer the degree of Doctor of Physical Therapy.		Doctor of Physical Therapy

2004	State Board Action 8-11-04	Additional Degree-Granting Authority to confer the degree of Master of Public Health.		Master of Public Health
2007	State Board Action, 9-11-07	Additional Degree-Granting Authority to confer the degree of Doctor of Pharmacy.		Pharm. D.
2008	State Board Action, 5-14-08	Additional Degree-Granting Authority to confer the degree of Master of Medical Education Leadership (MMEL).		MMEL
			<p>“Therefore, all of the degree granting authority vested in the Westbrook Seminary in 1831 which was never changed by the Maine State Legislature up and through the time of the merger when Westbrook College assumed the name of the University of New England is now fully vested in UNE”.</p> <p>“Based on this review of the legislative history it is clear that UNE should be granted an exemption to Chapter 149 requirements. The Department should recognize that UNE has an open charter and may confer such degrees as are determined to be appropriate by the Board of Trustees of UNE who now hold</p>	

			the continuous authority of the original trustees of the Westbrook Seminary".	
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